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PUBLIC UTILITY COMMISSION OF TEXAS

APPLICATION OF  
SOUTHWESTERN ELECTRIC POWER COMPANY  
FOR AUTHORITY TO CHANGE RATES

REBUTTAL TESTIMONY OF  
LYNN FERRY-NELSON  
FOR  
SOUTHWESTERN ELECTRIC POWER COMPANY

APRIL 23, 2021

<u>TESTIMONY INDEX</u>	
<u>SECTION</u>	<u>PAGE</u>
I. INTRODUCTION .....	1
II. PURPOSE OF REBUTTAL TESTIMONY .....	1
III. SWEPCO’S RATE-CASE EXPENSES FOR THIS CASE .....	1
IV. CARD’S RATE-CASE EXPENSE TESTIMONY .....	7
V. CONCLUSION.....	8

<u>EXHIBITS</u>	
EXHIBIT LFN-1R	SWEPCO’s First Supplemental Rate-Case Expense Report
EXHIBIT LFN-2R	SWEPCO’s Docket No. 51415 Rate-Case Expenses Segregated by Sub-Issue

1

I. INTRODUCTION

2 Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.

3 A. My name is Lynn Ferry-Nelson, and my position is Director, Regulatory Services for  
4 Southwestern Electric Power Company (SWEPCO or the Company). My business  
5 address is 428 Travis Street, Shreveport, Louisiana 71101.

6 Q. DID YOU FILE DIRECT TESTIMONY IN THIS CASE?

7 A. Yes.

8

II. PURPOSE OF REBUTTAL TESTIMONY

9 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

10 A. The purpose of my rebuttal testimony is twofold. First, I respond to the direct testimony  
11 of Ruth Stark who testifies on behalf of the Staff of the Public Utility Commission of  
12 Texas (Staff) regarding the review and sufficiency of the evidence supporting  
13 SWEPCO's rate-case expenses for this proceeding.<sup>1</sup> Second, I briefly address the  
14 recent rate-case expense testimony filed on behalf of Cities Advocating Reasonable  
15 Deregulation (CARD).

16

III. SWEPCO'S RATE-CASE EXPENSES FOR THIS CASE

17 Q. IN YOUR DIRECT TESTIMONY, YOU SUMMARIZED AND PROVIDED  
18 DOCUMENTATION SUPPORTING SWEPCO'S UNRECOVERED RATE-CASE  
19 EXPENSES FOR THIS PROCEEDING AS RECORDED TO SWEPCO'S BOOKS

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<sup>1</sup> See Direct Testimony of Ruth Stark at 55:8 – 57:13.

1 THROUGH JULY 31, 2020, AND YOU TESTIFIED THAT SWEPCO PLANNED  
2 TO SUPPLEMENT THIS DOCUMENTATION TO REFLECT ITS ACTUAL  
3 EXPENSES FOR THIS CASE AS ADDITIONAL EXPENSES ARE INCURRED  
4 AND RECORDED TO SWEPCO'S BOOKS AND RECORDS. HAS SWEPCO  
5 FILED A SUPPLEMENTAL RATE-CASE EXPENSE REPORT?

6 A. Yes, SWEPCO filed its First Supplemental Rate-Case Expense Report on April 8,  
7 2021, a copy of which is attached to this testimony as Exhibit LFN-1R. This report  
8 provides: (1) a summary of SWEPCO's total unrecovered rate-case expenses as  
9 requested in this proceeding and as recorded to SWEPCO's books and records through  
10 February 28, 2021; and (2) documentation of and materials supporting SWEPCO's  
11 rate-case expenses as requested in this proceeding and as recorded to SWEPCO's books  
12 and records from August 1, 2020, through February 28, 2021.<sup>2</sup>

13 Q. WITH THE FILING OF THE FIRST SUPPLEMENTAL RATE-CASE EXPENSE  
14 REPORT, HAS SWEPCO NOW PRESENTED EVIDENCE SUPPORTING ALL OF  
15 THE COMPANY'S RATE-CASE EXPENSES FOR THIS CASE?

16 A. No, there are rate-case expenses for this case that have been incurred, but were not  
17 recorded to SWEPCO's books and records in time to be included in the First  
18 Supplemental Rate-Case Expense Report. In addition, as noted in my direct testimony,<sup>3</sup>  
19 a significant amount of the expected rate-case expenses for this case will be incurred  
20 in the case's later stages, just before, during, and after the hearing on the merits.

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<sup>2</sup> The documentation of and materials supporting SWEPCO's unrecovered rate-case expenses as recorded to SWEPCO's books and records for this case from its inception through July 31, 2020, are provided in Exhibit LFN-1 to my direct testimony.

<sup>3</sup> Direct Testimony of Lynn Ferry-Nelson at 25:14-19.

1 Q. DOES MS. STARK PRESENT A PROPOSAL FOR ADDRESSING SWEPCO'S  
2 RATE-CASE EXPENSES FOR THIS CASE THAT HAVE BEEN OR WILL BE  
3 INCURRED, BUT ARE NOT REFLECTED IN THE EVIDENCE PRESENTED  
4 WITH YOUR DIRECT TESTIMONY OR IN THE COMPANY'S FIRST  
5 SUPPLEMENTAL RATE-CASE EXPENSE REPORT?

6 A. Yes. Ms. Stark testifies that Staff recommends that the evidentiary record be held open  
7 through the issuance of the proposal for decision (PFD) in this proceeding for the  
8 limited purpose of allowing SWEPCO and CARD to file updates to their rate-case  
9 expenses.<sup>4</sup> Ms. Stark asserts that under Staff's recommendation, SWEPCO's and  
10 CARD's trailing rate-case expenses for this proceeding should be minimized.<sup>5</sup>

11 Q. WILL STAFF'S RECOMMENDATION, IF PERMITTED, PROVIDE AN  
12 EVIDENTIARY RECORD ON WHICH THE COMMISSION CAN ADDRESS THE  
13 REASONABLENESS OF ALL OF SWEPCO'S AND CARD'S RATE-CASE  
14 EXPENSES FOR THIS CASE IN THIS CASE?

15 A. No. I agree that trailing rate-case expenses will be minimized if the Administrative Law  
16 Judges (ALJs) permit the evidentiary record to remain open through the issuance of the  
17 PFD, but such expenses will not be eliminated. Indeed, after the issuance of the PFD,  
18 SWEPCO and CARD will incur rate-case expenses associated with drafting exceptions  
19 and replies to the PFD, preparing for and attending Commission Open Meetings during  
20 which the Commission considers the PFD, and drafting motions for rehearing.  
21 Ultimately, whether the ALJs allow the evidentiary record to stay open through the

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<sup>4</sup> Direct Testimony of Ruth Start at 56:10-13.

<sup>5</sup> Direct Testimony of Ruth Start at 56:13-14.

1 PFD or close the record with the filing of reply briefs, as I believe is typically the case,  
2 there will be a cut-off date for expenses that can be reviewed in this case.

3 Q. DOES SWEPCO HAVE A PROPOSAL FOR ADDRESSING THE  
4 REASONABLENESS AND RECOVERY OF ITS RATE-CASE EXPENSES FOR  
5 THIS PROCEEDING THAT ARE RECORDED TO THE COMPANY'S BOOKS  
6 AND RECORDS AFTER THE CUT-OFF DATE?

7 A. Yes, SWEPCO presented such a proposal in its application and in my direct testimony.<sup>6</sup>  
8 Specifically, SWEPCO proposes:

- 9 1) to file a projection of the expenses expected to be incurred after the cut-off date  
10 through a final order in this docket with its final supplemental rate-case expense  
11 report;
- 12 2) that these projected expenses be included in and recovered through SWEPCO's  
13 Rate Case Surcharge Rider (RCS Rider);
- 14 3) that the Company's actual expenses incurred after the cut-off date be reviewed  
15 for reasonableness in the next proceeding before the Commission in which the  
16 Company's rate-case expenses are addressed; and
- 17 4) that in that subsequent proceeding, the Commission adjust SWEPCO's RCS  
18 Rider to account for any over- or under-collection of rate-case expenses  
19 associated with this proceeding that have been found reasonable.

20 Q. DOES MS. STARK OR ANY OTHER PARTY TAKE A POSITION ON SWEPCO'S  
21 PROPOSAL FOR ADDRESSING THE POST-CUT-OFF DATE RATE-CASE  
22 EXPENSES?

23 A. No. Ms. Stark acknowledges SWEPCO's proposal, but takes no position on it. Instead,  
24 she presents Staff's recommendation for minimizing trailing rate-case expenses.

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<sup>6</sup> See Petition and Statement of Intent to Change Rates at 11-12; *see also* Direct Testimony of Lynn Ferry-Nelson at 26:11-25.

1 Q. DOES MS. STARK ADDRESS THE REASONABLENESS OF THE PORTION OF  
2 SWEPCO'S RATE-CASE EXPENSES FOR THIS CASE THAT WERE  
3 PRESENTED IN YOUR DIRECT TESTIMONY?

4 A. Yes. Ms. Stark testifies that SWEPCO's rate-case expenses presented with my direct  
5 testimony "appear on their face to be reasonable and in compliance with 16 Texas  
6 Administrative Code § 25.245 (TAC)."<sup>7</sup> However, Ms. Stark contends that SWEPCO  
7 has not provided the breakdown of its rate-case expenses by issue as required by 16  
8 TAC § 25.245.<sup>8</sup> Finally, Ms. Stark concludes that she cannot make an ultimate  
9 determination at this time because the expenses presented with my direct testimony  
10 represent only a fraction of the expected total rate-case expenses for this proceeding.<sup>9</sup>

11 Q. DO YOU AGREE WITH MS. STARK THAT SWEPCO HAS NOT PROVIDED  
12 EVIDENCE ALLOWING FOR THE BREAKDOWN OF THE COMPANY'S RATE-  
13 CASE EXPENSES BY ISSUE IN THE PROCEEDING?

14 A. No. The legal invoices provided with my direct testimony and in SWEPCO's First  
15 Supplemental Rate-Case Expense Report provide information that details and itemizes  
16 expenses by issue, proceeding stage, and litigation activity. As I described in my direct  
17 testimony, outside attorneys who represent SWEPCO are required to submit invoices  
18 with narrative descriptions of the work performed and the amount of time spent  
19 performing that work.<sup>10</sup> Further, I testified that SWEPCO's outside legal counsel from

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<sup>7</sup> Direct Testimony of Ruth Stark at 57:5-7.

<sup>8</sup> Direct Testimony of Ruth Stark at 57:7-8.

<sup>9</sup> Direct Testimony of Ruth Stark at 57:8-13.

<sup>10</sup> Direct Testimony of Lynn Ferry-Nelson at 35:17-19.



1 Duggins Wren Mann & Romero, LLP (DWMR) use of reasonably detailed narrative  
2 descriptions, the American Bar Association's (ABA) Uniform Task-Based  
3 Management System's litigation codes, and DWMR's rate-proceeding specific billing  
4 codes<sup>11</sup> adequately and reasonably allow for the identification of fees associated with  
5 the substantive issues that should reasonably be expected in a rate proceeding.<sup>12</sup> These  
6 methods serve the purpose of the Commission's rate-case expense rule—i.e., they  
7 allow for identification of fees associated with the substantive issues so that the  
8 Commission and parties can assess rate-case expenses by substantive issue. At the  
9 same time, these methods are not so detailed that they burden SWEPCO or its  
10 customers with unnecessary administrative costs.

11 The DWMR attorneys' use of the ABA codes allow their time to be segregated  
12 by dozens of litigation codes, ranging from time spent with experts and consultants,  
13 time spent on settlement activities, time associated with pleading, written discovery,  
14 trial and hearing attendance, and post-hearing activities. In addition, the DWMR  
15 attorneys' use of the firm's own rate proceeding billing codes allow their time to be  
16 further segregated by rate proceeding specific sub-issue. To further facilitate Staff's  
17 review of the expenses, SWEPCO has provided Exhibit LFN-2R, which presents  
18 DWMR's legal expenses for this case through those identified in SWEPCO's First

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<sup>11</sup> In response to the Commission's adoption of its rate-case expense rule—i.e., 16 TAC § 25.245—DWMR has established 69 rate proceeding specific billing codes used by its attorneys when billing on matters for which the utility will seek recovery of such expenses from customers.

<sup>12</sup> Direct Testimony of Lynn Ferry-Nelson at 36:1-4.

1 Supplemental Rate-Case Expense Report broken out by sub-issue using DWMR's  
2 internal billing codes.<sup>13</sup>

3 SWEPCO's outside consultants each addressed or supported the development  
4 and presentation of discrete issues. For example, all of the fees and expenses incurred  
5 by Mr. Greg Wilson relate to SWEPCO's proposed self-insurance reserve.  
6 Accordingly, SWEPCO's outside consultants' fees and expenses can be directly  
7 assigned to the issues on which they worked.

8 IV. CARD'S RATE-CASE EXPENSE TESTIMONY

9 Q. HAVE YOU REVIEWED CARD WITNESS CATHERINE WEBKING'S DIRECT  
10 TESTIMONY?

11 A. Yes, Ms. Webking's testimony supports the rate-case expenses for which CARD seeks  
12 reimbursement in this proceeding and certain past proceedings.<sup>14</sup>

13 Q. DO YOU HAVE ANY CONCERNS REGARDING THE RATE-CASE EXPENSES  
14 FOR WHICH CARD IS SEEKING REIMBURSEMENT?

15 A. I do not have an opinion on the reasonableness of CARD's rate-case expenses.  
16 However, I do have a concern regarding CARD's rate-case expenses for Docket  
17 No. 47141. CARD has requested the review and reimbursement of \$6,320.50 of rate-

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<sup>13</sup> DWMR's legal expenses reflected on Exhibit LFN-2R are those billed by DWMR to SWEPCO for Docket No. 51415. The total amount of these expenses will vary from that booked by SWEPCO for DWMR. The invoices included in Exhibit LFN-1 to my direct testimony and in SWEPCO's First Supplemental Rate-Case Expense Report include both the amount billed to SWEPCO by DWMR and the adjusted amount SWEPCO recorded to its books. SWEPCO is only seeking recovery of rate-case expenses recorded to its books.

<sup>14</sup> Direct Testimony of Catherine J. Webking at 2:19-21.

1 case expenses associated with Docket No. 47141.<sup>15</sup> These expenses were all incurred  
2 after April 13, 2020, and were related to finalizing the settlement agreement in Docket  
3 No. 47141.<sup>16</sup> My concern is that CARD’s reimbursement request for Docket No. 47141  
4 exceeds the amount provided for in the unanimous settlement agreement in that case.  
5 In particular, the agreement provided for, and the Commission approved, a black-box  
6 recovery amount in Docket No. 47141 that “includes reimbursement to CARD for  
7 actual expenses incurred in this docket after April 13, 2020, but caps that  
8 reimbursement at \$2,500.”<sup>17</sup> The Commission also found that CARD “agreed not to  
9 request any additional recovery for rate-case expenses incurred in [Docket No. 47141].”<sup>18</sup>

10 V. CONCLUSION

11 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

12 A. Yes, it does.

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<sup>15</sup> Direct Testimony of Catherine J. Webking at Attachment CJW-2, Affidavit of Alfred R. Herrera at ¶12.

<sup>16</sup> Direct Testimony of Catherine J. Webking at Attachment CJW-2, Affidavit of Alfred R. Herrera at ¶12.

<sup>17</sup> See *Review of Rate Case Expenses Incurred by Southwestern Electric Power Company and Municipalities in Docket No. 46449*, Docket No. 47141, Order at Finding of Fact No. 78 (Aug. 27, 2020).

<sup>18</sup> Docket No. 47141, Order at Finding of Fact No. 79.

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